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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|--|
| Proceeding | 91205331 |
| Party | Defendant Kerry Earnhardt, Inc. |
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| Attachments | Applicants Notice of Filing Transcript_ Stephanie Nance.pdf(3020478 bytes) Exhibits of Deposition Transcript of Stephanie Nance.pdf(3367821 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | | |
|-----------------------|---|-----------------------------------|
| Teresa H. Earnhardt, | § | Consolidated Opposition Nos. |
| | § | 91205331 (parent) and 91205338 |
| Opposer, | § | |
| | § | In the matter of: |
| vs. | § | |
| | § | Application Serial No. 85/383,910 |
| Kerry Earnhardt, Inc. | § | Mark: EARNHARDT COLLECTION |
| | § | (Intl. Class 20) |
| Applicant, | § | |
| | § | Application Serial No. 85/391,456 |
| | § | Mark: EARNHARDT COLLECTION |
| | | (Intl. Class 37) |

APPLICANT'S NOTICE OF FILING OF THE TRANSCRIPT
AND EXHIBITS OF THE TESTIMONY PERIOD
DEPOSITION OF STEPHANIE NANCE

PLEASE TAKE NOTICE that Kerry Earnhardt, Inc. ("Applicant") hereby files the transcript and Applicant's Exhibit Nos. 10-20 of the October 29, 2014, testimony period deposition of Stephanie Nance.

Respectfully submitted,

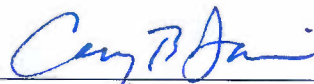


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CERTIFICATE OF SERVICE

I hereby certify that the foregoing “Applicant’s Notice of Filing of the Transcript and Exhibits of the Testimony Period Deposition of Stephanie Nance” and the accompanying materials were duly served on Opposer by depositing copies of same in the United States mail, first-class postage prepaid, on the 5th day of December, 2014 addressed to Opposer’s attorneys of record as follows:

Larry C. Jones
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Cary Baxter Davis

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Consolidated Opposition Nos.:
91205331 (parent) and 91205338

In the matter of:

Application Serial No.
85/383,910
Trademark: EARNHARDT COLLECTION
(Intl. Class 20)

Application Serial No.
85/391,456
Service Mark: EARNHARDT COLLECTION
(Intl. Class 37)

| | |
|------------------------|---|
| TERESA H. EARNHARDT, |) |
| |) |
| Opposer, |) |
| |) |
| -vs- |) |
| |) |
| KERRY EARNHARDT, INC., |) |
| |) |
| Applicant. |) |
| |) |

DEPOSITION OF STEPHANIE NANCE

(Taken by the Applicant)

101 North Tryon Street - Suite 1900
Charlotte, North Carolina

Wednesday, October 29, 2014

REPORTED BY: Beverly J. Gramm, RPR
Notary Public

1 APPEARANCES OF COUNSEL:

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12

13

14

15

16 DEPOSITION of STEPHANIE NANCE, taken by
17 the Applicant, at Robinson, Bradshaw & Hinson, P.A.,
18 101 North Tryon Street, Suite 1900, Charlotte, North
19 Carolina, on the 29th day of October, 2014, at 10:58
20 a.m., before Beverly J. Gramm, Registered
21 Professional Reporter and Notary Public.

19

20

21

22

23

24

25

C O N T E N T S

THE WITNESS:

Stephanie Nance

DIRECT EXAMINATION

By Mr. Davis

5

CROSS-EXAMINATION

By Mr. Jones

25

I N D E X T O E X H I B I T S

Applicant's Exhibit 10

(Trademark Electronic Search
System results for collection)

7

Applicant's Exhibit 11

(Trademark Electronic Search
System results for specific
collections)

9

Applicant's Exhibit 12

(Trademark Electronic Search
System results for Hamilton
Collection)

10

Applicant's Exhibit 13

(Trademark Electronic Search
System results for Stewart
Collection)

12

Applicant's Exhibit 14

(Trademark Electronic Search
System results for Phillips
Collection)

13

Applicant's Exhibit 15

(Trademark Electronic Search
System results for Wallace
Collection)

15

I N D E X T O E X H I B I T S (cont'd)

| | |
|---|----|
| Applicant's Exhibit 16 (Trademark Electronic Search System results for Dale Earnhardt, Jr. collection) | 16 |
| Applicant's Exhibit 17 (Trademark Assignment Abstract of Title for the Estate of Dale Earnhardt, Sr.) | 18 |
| Applicant's Exhibit 18 (Trademark Electronic Search System results for Kerry Earnhardt) | 18 |
| Applicant's Exhibit 19 (Merriam-Webster Dictionary search results for collection) | 19 |
| Applicant's Exhibit 20 (Google search results for collection and apparel) | |

1 STEPHANIE NANCE,
2 having been duly sworn, was examined
3 and testified on her oath as follows:

4 DIRECT EXAMINATION

5 BY MR. DAVIS:

6 Q Good morning. Would you please state your
7 name for the record?

8 A Stephanie Nance.

9 Q And, Miss Nance, where do you work?

10 A At Robinson, Bradshaw & Hinson.

11 Q And is that a law firm?

12 A Yes, sir.

13 Q And what is your position at Robinson,
14 Bradshaw & Hinson?

15 A Library Director.

16 Q Okay. And how long have you held that
17 position?

18 A Almost nine years this November.

19 Q Almost. And what sort of training do you
20 have to be a librarian?

21 A I have a Master's degree in Library
22 Science.

23 Q All right. And where is that from?

24 A From UNC Greensboro.

25 Q All right. And where is your

1 undergraduate degree from?

2 A East Carolina University.

3 Q And what did you study? What did you
4 major in?

5 A English.

6 Q All right. Let's talk about this
7 particular case that we're here on today. And do
8 you understand that this is a trademark opposition
9 case that was brought by Teresa Earnhardt against
10 Kerry Earnhardt Incorporated?

11 A Yes.

12 Q And did you conduct any research in
13 connection with that case?

14 A I did.

15 Q All right. And did you use the USPTO's
16 online database to do that?

17 A I did.

18 Q And more specifically, did you use
19 something called TESS, which is the Trademark
20 Electronic Search System, to do that research?

21 A Yes.

22 Q And is this TESS, is it a database?

23 A It is.

24 Q Is it searchable?

25 A It is searchable.

1 Q All right. So I assume you access this
2 TESS site online?

3 A Yes.

4 Q All right. And then is there a feature
5 there that you can run searches in this TESS
6 database?

7 A Yes.

8 Q And did you do that?

9 A I did.

10 (Applicant's Exhibit 10, Trademark
11 Electronic Search System results for collection, was
12 marked for identification.)

13 BY MR. DAVIS:

14 Q All right. All right. If you'll take a
15 look at the first exhibit that you have there,
16 that's Applicant's Exhibits 10. Do you have that?

17 A Yes.

18 Q Did you run a search using the word
19 "collection"?

20 A Yes.

21 Q All right. And did you get any results?

22 A Yes.

23 Q What were those results?

24 A About over 13,000 hits.

25 Q And that's hits with --

1 A With the word "collection" in them.

2 Q Okay. Thank you. And did you printout
3 the first page of the search results?

4 A Yes.

5 Q And looking at Exhibit 10, is that the
6 first two pages of Exhibit 10?

7 A Yes.

8 Q All right. Is there a way that you're
9 able to search to see how many of those trademarks
10 containing "collection" are currently live?

11 A Yes.

12 Q All right. And did you do that?

13 A I did. I selected the radio button for
14 live.

15 Q Okay. And did you get any results?

16 A Yes.

17 Q And how many of those are still live?

18 A 3,727 results came back live for
19 "collection."

20 Q Is that what's reflected on pages 3 and 4
21 of Exhibit 10?

22 A Yes.

23 Q And did you printout those results?

24 A I did.

25 Q And what's here at pages 3 and 4 of

1 Exhibit 10?

2 A Yes, sir.

3 (Applicant's Exhibit 11, Trademark
4 Electronic Search System results for specific
5 collections, was marked for identification.)

6 BY MR. DAVIS:

7 Q Thank you. All right. Looking at the
8 next exhibit, Applicant's Exhibit 11, let me ask you
9 this, did you run searches for specific trademarks
10 containing the word "collection"?

11 A I did.

12 Q All right. Now, Exhibit 11, looking at
13 Exhibit 11 here, did you run a search for "Jones
14 Collection"?

15 A Yes.

16 Q All right. And this is still in the TESS
17 database?

18 A Yes. Still in TESS, yes.

19 Q All right. And is that what you got -- is
20 page 1 of Exhibit 11 the results of that search for
21 "Jones Collection"?

22 A Yes.

23 Q All right. And did you printout those
24 search results?

25 A I did.

1 Q And according to the T Tabs records, is
2 the mark for the "Jones Collection" live or dead?

3 A It is live.

4 Q Did you -- is there a feature on the TESS
5 database called Trademark Status and Document
6 Retrieval?

7 A Yes.

8 Q And what is that on the -- is that a link?

9 A If I click on to the "Jones Collection"
10 and pulled up that record, there's another link to
11 TSDR. And when I click that link, it takes you to
12 the documents associated with the trademark.

13 Q Okay. Like a docket?

14 A Yeah. It's like a docket for their
15 process.

16 Q Did you look to see if you could find the
17 Registration Certificate for the "Jones Collection"?

18 A Yes.

19 Q All right. And did you?

20 A I did.

21 Q Okay. And did you print that out?

22 A I did.

23 Q Is that the second page of Exhibit 11?

24 A Yes.

25 (Applicant's Exhibit 12, Trademark

1 Electronic Search System results for Hamilton

2 Collection, was marked for identification.)

3 BY MR. DAVIS:

4 Q All right. Let's look at Exhibit 12 now
5 and ask you whether or not you ran a search for the
6 "Hamilton Collection"?

7 A Yes.

8 Q All right. And did you printout the --
9 did you get any results?

10 A I did.

11 Q All right. And did you printout those
12 search results?

13 A I did.

14 Q Is that the first page of Exhibit 12?

15 A Yes.

16 Q All right. And according to the T Tabs
17 records, are the trademarks for the "Hamilton
18 Collection" live or dead?

19 A Both.

20 Q All right. Let's look at the ones --
21 let's just take the ones that the records reflect
22 are still live.

23 A Okay.

24 Q Did you go on to TSDR and look for the
25 Registration Certificates for those?

1 A Yes.

2 Q All right. And will you locate them?

3 A Yes.

4 Q And did you print those out?

5 A I did.

6 Q And looking at Exhibit 12, are those the
7 documents, beginning with the second page of that
8 exhibit?

9 A Yes.

10 (Applicant's Exhibit 13, Trademark
11 Electronic Search System results for Stewart
12 Collection, was marked for identification.)

13 BY MR. DAVIS:

14 Q Okay. Thank you. Let's turn now to
15 Applicant's Exhibit 13. Do you have that in front
16 of you?

17 A Yes.

18 Q All right. Did you do a search in the
19 TESS database for "Stewart Collection"?

20 A Yes.

21 Q All right. And did you get anything?

22 A Yes.

23 Q You printed out the search results?

24 A I did.

25 Q And is that page 1 of Exhibit 13?

1 A Yes.

2 Q All right. And that is a record for
3 "Stewart Collection"?

4 A There is.

5 Q Okay. And is -- I don't know if I asked
6 you this or not, but is your search result for
7 "Stewart Collection" page 1 of Exhibit 13?

8 A It is.

9 Q Okay. And is the mark for "Stewart
10 Collection" live or dead?

11 A It is live.

12 Q Did you go onto TSDR and look for the
13 Registration Certificate?

14 A Yes.

15 Q And did you find it --

16 A Yes.

17 Q -- and print it out?

18 A Yes.

19 Q And is that page 2 of Exhibit 13?

20 A Yes.

21 (Applicant's Exhibit 14, Trademark
22 Electronic Search System results for Phillips
23 Collection, was marked for identification.)

24 BY MR. DAVIS:

25 Q All right. Take a look, if you would, at

1 Exhibit 14, please. Applicant's Exhibit 14. And
2 ask you whether or not you ran a search for
3 "Phillips Collection."

4 A Yes.

5 Q All right. And did you get anything?

6 A Yes.

7 Q And did you printout those search results?

8 A Yes.

9 Q And is that the first page here of
10 Exhibit 14?

11 A Yes.

12 Q All right. I want to ask you to take a
13 look at the result with the Registration Number
14 1440219. Do you see that?

15 A Yes.

16 Q Is that one live or dead?

17 A It is live.

18 Q All right. Did you go onto TSDR and look
19 for the Registration Certificate for that one?

20 A I did.

21 Q And did you find it --

22 A Yes.

23 Q -- and print it out?

24 A Yes.

25 Q And looking at Exhibit 14, is that page 2

1 of that exhibit?

2 A Yes.

3 (Applicant's Exhibit 15, Trademark
4 Electronic Search System results for Wallace
5 Collection, was marked for identification.)

6 BY MR. DAVIS:

7 Q All right. I ask you to look now at
8 Applicant's Exhibit 15. Did you, Miss Nance, run a
9 search for "Wallace Collection"?

10 A Yes.

11 Q Did you get anything?

12 A Yes.

13 Q Okay. And did you printout your search
14 results?

15 A Yes.

16 Q And is that page -- is that the first page
17 of Exhibit 15?

18 A Yes.

19 Q All right. And is the mark for "Wallace
20 Collection" live or dead?

21 A It is live.

22 Q Did you go on to TSDR and look for the
23 Registration Certificate?

24 A Yes.

25 Q And did you see it?

1 A Yes.

2 Q Did you print it out?

3 A I did.

4 Q And is that page 2 of Exhibit 15?

5 A Yes.

6 (Applicant's Exhibit 16, Trademark
7 Electronic Search System results for Dale Earnhardt,
8 Jr. Collection, was marked for identification.)

9 BY MR. DAVIS:

10 Q Thank you. All right. If you'd look now
11 at Applicant's Exhibit 16, do you have that in front
12 of you?

13 A Yes.

14 Q Did you do a search in the TESS database
15 for "Dale Earnhardt, Jr."?

16 A Yes.

17 Q All right. And did you get anything?

18 A Yes.

19 Q And did you -- is the first page of
20 Exhibit 16 a printout of your search results?

21 A Yes.

22 Q All right. Did you go on to TSDR and pull
23 the Registration Certificates for the live marks?

24 A I did.

25 Q And did you print those out?

1 A Yes.

2 Q And are those the documents that begin
3 with the second page of Exhibit 16 through to the
4 last page of Exhibit 16?

5 A Yes.

6 Q Okay. Thank you. All right. Let's focus
7 on the Dale Earnhardt, Jr. mark with Registration
8 Number 2673722. And I'll just --

9 A Okay.

10 Q -- I'll just ask you to take a look back
11 at Applicant's Exhibit 16. Do you see that one
12 listed on your search results?

13 A Yes.

14 Q Okay. Does the TESS system, the database
15 that you were looking in for these searches, does
16 that system have a feature where you can see if the
17 ownership of a particular trademark has been
18 assigned?

19 A Yes.

20 Q All right. And did you utilize that
21 feature to see if the Dale Earnhardt, Jr. mark,
22 Registration Number 2673722, had ever been assigned?

23 A Yes.

24 Q And what did you find?

25 A That it had been assigned.

1 Q Okay. And did you printout that page?

2 A I did.

3 (Applicant's Exhibit 17, Trademark
4 Assignment Abstract of Title for Estate of Dale
5 Earnhardt, Sr., was marked for identification.)

6 BY MR. DAVIS:

7 Q And if you'll look now at Applicant's
8 Exhibit 17, do you have that in front of you?

9 A Yes.

10 Q And is this what you printed out showing
11 that assignment?

12 A Yeah. The assignment abstract, yes.

13 Q Thank you.

14 MR. JONES: I'm sorry. Where are you?

15 MR. DAVIS: Exhibit 17.

16 MR. JONES: Thank you.

17 MR. DAVIS: Thanks.

18 (Applicant's Exhibit 18, Trademark
19 Electronic Search System results for Kerry
20 Earnhardt, was marked for identification.)

21 BY MR. DAVIS:

22 Q All right. That's all with Exhibit 17.
23 And if you'll look now, Miss Nance, at the next
24 exhibit, Applicant's Exhibit 18, do you have that?

25 A Yes.

1 Q Did you do a search in the TESS database
2 for "Kerry Earnhardt"?

3 A Yes.

4 Q And did you get anything?

5 A Yeah. Yes.

6 Q And is what you got the first two pages of
7 Applicant's Exhibit 18?

8 A Yes.

9 Q So you printed out the results?

10 A Right.

11 Q And is that mark still live?

12 A Yes.

13 Q And did you pull the Registration
14 Certificate from the TSDR --

15 A Yes.

16 Q -- and print that out?

17 A Yes.

18 Q And is that page 3 of Exhibit 18?

19 A Yes.

20 (Applicant's Exhibit 19, Merriam-Webster
21 Dictionary search results for collection, was marked
22 for identification.)

23 BY MR. DAVIS:

24 Q All right. Thank you. All right. Taking
25 a look at Applicant's Exhibit 19. As part of your

1 research, did you look up the definition of the word
2 "collection" in the dictionary?

3 A Yes.

4 Q All right. What dictionary did you look
5 it up in?

6 A I went to Merriam-Webster's online.

7 Q Okay. And did you find the definition of
8 "collection"?

9 A Yes.

10 Q And did you print that out?

11 A Yes.

12 Q And is Exhibit 19 what you printed out?

13 A Yes.

14 Q Okay. Thanks. Also, as part of your
15 search, did you run some Google searches?

16 A Yes.

17 (Applicant's Exhibit 20, Google search
18 results for collection and apparel, was marked for
19 identification.)

20 BY MR. DAVIS:

21 Q All right. And if we take a look at
22 Applicant's Exhibit 20, I've got some questions for
23 you about that.

24 Did you do a Goggle search for
25 "collection" and "apparel"?

1 A Yes.

2 Q All right. And are the first two pages of
3 Exhibit 20, does that reflected your search?

4 A It does.

5 Q And what search terms did you use?

6 A The word "collection" and the word
7 "apparel."

8 Q Okay. Does it make any difference if you
9 put an and in the middle of that?

10 A No.

11 Q Okay. And when you ran that search, how
12 many results did you get?

13 A 90,300,000, about, Google says.

14 Q All right. And you printed out the first
15 page of what appeared when you ran that search?

16 A Right. Yes.

17 Q Are those the first two pages of
18 Exhibit 20?

19 A Yes.

20 Q All right. Did you run a search for
21 "collection" and "art"?

22 A Yes.

23 Q And again, I don't see an and in between
24 there. And is that because it doesn't matter if you
25 just do "collection art," you will get the same

1 results?

2 A Yes, that's correct.

3 Q And when you ran that search, how many
4 results did you get?

5 A It looks like about 1, is that billion,
6 130,000,000.

7 Q And did you print out the first page of
8 the search results for "collection art"?

9 A Yes.

10 Q And that's pages 3 and 4 of Exhibit 20?

11 A Yes. 1,100,000,000, et cetera.

12 Q Did you run a search for -- when I say
13 this, madame, could you put this in quotes -- for
14 "collection jewelry"?

15 A Yes.

16 Q And did you get results?

17 A Yes.

18 Q All right. And what were the results?

19 A There were about 163,000,000 hits in
20 Google search.

21 Q And did you printout the first page of
22 those search results?

23 A Yes.

24 Q And is that what's reflected here, this is
25 now pages 5 and 6 of Exhibit 20?

1 A Yes.

2 Q Okay. Did you run a Google search for
3 "collection shoe"?

4 A Yes.

5 Q All right. And did you get results for
6 that?

7 A Yes.

8 Q All right. About how many results?

9 A About 96 million.

10 Q Okay. And did you printout the first page
11 of that search result?

12 A Yes.

13 Q And is that what's next here at pages 7
14 and 8 of Exhibit 20?

15 A Yes.

16 Q All right. Did you also run a search for
17 "collection stamp"?

18 A Yes.

19 Q All right. And did you get any results
20 with that?

21 A Yes.

22 Q How many results on Google?

23 A Sixty -- about 61,300,000.

24 Q All right. Did you printout the first
25 page of that search?

1 A Yes.

2 Q And is that the next two pages in Exhibit
3 20?

4 A Yes.

5 Q Did you run a Google search for
6 "collection baseball cards"?

7 A Yes.

8 Q All right. And about how many results did
9 you get?

10 A About 4,510,000.

11 Q All right. And did you printout the first
12 page of those search results?

13 A Yes.

14 Q And is that the next two pages in
15 Exhibit 20?

16 A Yes.

17 Q Did you run a Google search for
18 "collection birthday card"?

19 A Yes.

20 Q All right. And did you get results for
21 that?

22 A Yes.

23 Q How many?

24 A About 984,000.

25 Q Did you printout the first page in that

1 search result?

2 A Yes.

3 Q And is that the last two pages of
4 Exhibit 20?

5 A Yes.

6 Q All right. And so Exhibit 20 is a
7 collection of the printouts of the first pages of
8 these Google searches that you ran?

9 A Yes.

10 MR. DAVIS: That's all the questions I
11 have at this time.

12 MR. JONES: Okay. Can we take a recess
13 now? You have now introduced quite a few new
14 documents. I need a few minutes to go through
15 them.

16 MR. DAVIS: Sure.

17 (Off the record at 11:14 a.m.)

18 (On the record at 11:21 a.m.)

19 CROSS-EXAMINATION

20 BY MR. JONES:

21 Q Okay. Miss Nance, I have a few questions
22 to follow-up on those that were asked of you during
23 direct examination.

24 When did you begin the research that you
25 reflect in these Exhibits 10 through 20 today?

1 A Probably mid October sometime.

2 Q Of this year?

3 A Yes, sir.

4 Q Okay. And did you do them because of
5 instructions given to you by someone?

6 A Yes.

7 Q Who gave you the instructions?

8 A Cary Davis.

9 Q And what were the instructions?

10 MR. DAVIS: Objection. Object. That's
11 attorney-client privilege and instruct not to
12 answer.

13 BY MR. JONES:

14 Q Why did you do the searches that you did?
15 Was it based upon the instructions that you were
16 given by your counsel?

17 MR. DAVIS: Objection. Same objection.
18 Instruct you not to answer.

19 MR. JONES: I'm not asking for the
20 substance, I'm asking her why she did the
21 searches that she did.

22 MR. DAVIS: Can you just repeat the
23 question?

24 (The referred-to portion of the record was
25 read back.)

1 MR. DAVIS: You can answer that.

2 THE WITNESS: Okay.

3 A Because it was a research request.

4 BY MR. JONES:

5 Q To do the particular research that you
6 did?

7 A To search this research in TESS.

8 Q Well, did you, on your own, decide to do a
9 search of, a Google search for "collection shoe,"
10 for instance?

11 A No.

12 Q Okay. And did you, on your own, decide to
13 do a search of trademark applications or
14 registrations containing the term "Jones
15 Collection"?

16 A Not out of my own head. I mean, it was in
17 the research request.

18 Q What did you decide to do other -- if
19 anything, other than what you were instructed to do?

20 A I mean, I ran the searches in TESS.

21 Q That you were instructed to do?

22 A That I know how to do in TESS.

23 Q That you were instructed to do? I'm
24 trying to get at what, on your own initiative, did
25 you do -- I know you conducted these searches, but

1 on your own initiative, did you make any decision as
2 to what searches to run?

3 A Sometimes.

4 Q Which ones?

5 A Like -- well, how I constructed the
6 search. Like the Junior, when I do J-R period, it
7 excluded some, or if I just put J-R.

8 Q Okay.

9 A You know, those kinds --

10 Q But it was based upon the attorney's
11 instructions that you did the search for "Dale
12 Earnhardt, Jr.," whether it was spelled out
13 J-U-N-I-O-R or J-R; correct?

14 A Correct.

15 Q Okay. Miss Nance, did you conduct any
16 research to determine whether the term "Earnhardt"
17 has any meaning or significance other than as a
18 surname?

19 A Can you repeat that?

20 Q Did you conduct any research to determine
21 whether the term "Earnhardt" has any meaning or
22 significance other than as a surname?

23 A It kind of feels like searching it here
24 means it has other significance than a surname.

25 Q Did you find any indication that Earnhardt

1 means anything in this country other than its -- its
2 utility or its use as a surname?

3 A I don't think I understand what you're --

4 Q You know what a surname is?

5 A Yes. Yeah.

6 Q Okay. Did you find any indication that
7 anybody ever used the term "Earnhardt" as a noun?

8 A No.

9 Q As a verb?

10 A No.

11 Q As an adjective?

12 A Could that apply to the word collection?

13 Q Did you find any indication that anyone
14 has used "Earnhardt" as an adjective?

15 A No.

16 Q How about as an adverb?

17 A No.

18 Q Did you find any indication that anyone
19 has ever used the term "Earnhardt" in this country
20 other than as a surname?

21 A No.

22 Q Thank you. Did you conduct any research
23 for that purpose?

24 A No.

25 Q Have you ever yourself personally seen or

1 heard anybody in your lifetime use the term
2 "Earnhardt" other than as a surname?

3 MR. DAVIS: I'm just going to object.

4 Outside the scope of direct. You can answer,
5 though, Stephanie.

6 A I don't think so.

7 BY MR. JONES:

8 Q Okay. Are you aware that in this
9 proceeding, this opposition proceeding before the T
10 T-A-B, there is no issue to be determined as to
11 whether the term "collection" is used widely to
12 refer to anything other than furniture and homes and
13 home designs?

14 A Was I aware of that?

15 Q Yes.

16 A No.

17 Q Okay. Did you conduct any research to
18 determine whether the term "collection" is widely
19 used in this country to refer to a group or
20 portfolio of homes or home designs?

21 A No.

22 Q Did you conduct any research to determine
23 whether the term "collection" is widely used in this
24 country to refer to a group or portfolio of
25 furniture items?

1 A No.

2 Q Have you ever yourself personally heard or
3 seen the term "collection" used to refer to a group
4 or assemblage of furniture items?

5 MR. DAVIS: Objection. That's outside the
6 scope of direct. But you can answer.

7 A Maybe. Like, Cindy Crawford has furniture
8 at Rooms To Go.

9 BY MR. JONES:

10 Q Does this --

11 A I don't know if it's called collection.

12 Q But I'm asking you whether you've ever
13 heard of somebody use the "Timberlake Collection,"
14 for instance, to refer to furniture or the "Cindy
15 Crawford Furniture Collection" or what -- the "X
16 Collection" to refer to a group of furniture items?

17 MR. DAVIS: Objection. You can answer.

18 A Yes.

19 BY MR. JONES:

20 Q Okay. Have you ever heard of anybody use
21 the term "collection" to refer to a group of homes
22 or home designs?

23 MR. DAVIS: Objection. You can answer.

24 A I don't think -- I mean, I wouldn't -- I
25 don't know.

1 BY MR. JONES:

2 Q You don't recall?

3 A I don't recall.

4 Q Okay. Did you find any instances in your
5 research where anyone raised an issue as to whether
6 the mark revealed in that research was challenged by
7 anyone as being primarily merely a surname?

8 A I didn't dig that deep. I was just
9 looking for live or dead and asked to pull
10 certificates.

11 Q In your research, did you ever find any
12 instance where the term "collection," by itself, was
13 registered for any goods or services?

14 MR. DAVIS: You mean just collection by
15 itself?

16 MR. JONES: Yes.

17 A I don't recall by itself. There's a long
18 list of almost 13,000. So I don't know.

19 BY MR. JONES:

20 Q Okay. But if you did, it would be
21 revealed in these exhibits before us?

22 A Right.

23 Q Okay. Did you conduct any searches for
24 which the search results are not included among
25 Exhibits 10 through 20?

1 A No.

2 Q So everything you did, or the result of
3 everything you did, is reflected in Exhibits 10
4 through 20, there's nothing that got left behind or
5 left out of the collection of exhibits used here
6 today; is that right?

7 A That's correct.

8 Q Okay. In your research, did you find any
9 instances where the term "collection" was disclaimed
10 for one reason or another?

11 A I don't know.

12 Q In your research, did you find any
13 instances where the term "collection" was disclaimed
14 because it was generic or descriptive?

15 A I don't know.

16 Q Okay. Would you take a look at
17 Applicant's Exhibit 10? Isn't it true that there
18 are no registrations identified in Exhibit 10?

19 A That's true.

20 Q Isn't it true that from Exhibit 10 one
21 cannot tell whether a mark has been used or to what
22 extent, if any, it has been used?

23 A That's true.

24 Q Isn't it true that from Exhibit 10 one
25 cannot tell whether the term "collection" was

1 disclaimed in any of these applications that are
2 listed in that exhibit?

3 A I cannot tell.

4 Q Isn't it true that one cannot identify the
5 goods or services listed in any of the applications
6 listed in Exhibit 10 from that exhibit?

7 A That's true.

8 Q Looking at Exhibit 11, Applicant's
9 Exhibit 11, second page of that exhibit is a copy of
10 U.S. Registration Number 2562189.

11 And what is the mark that is the subject
12 of that registration?

13 A "The Jones Collection."

14 Q "The Jones Collection"; is that right?

15 A It says "The Jones Collection."

16 Q Okay. And does that mark include any
17 elements other than the surname Jones?

18 A The word "the" and "collection."

19 Q And in that registration, isn't it true
20 that the term "collection" is disclaimed?

21 A Where it says no claim is made to the
22 exclusive right to use collection, apart from the
23 mark as shown.

24 Q You understand that to be a disclaimer?

25 A Yes.

1 MR. DAVIS: Or you do now?

2 THE WITNESS: Yeah.

3 BY MR. JONES:

4 Q Did you conduct any research to determine
5 whether at any time any third party challenged this
6 registration on the basis of the mark being
7 primarily merely a surname?

8 A I did not.

9 Q Did your research find any registration of
10 the term "Jones Collection" without "the," for any
11 goods or services?

12 A Not from the results list.

13 Q Did your research find a registration for
14 the designation "Jones Collection" for use on
15 furniture, homes, or home designs?

16 A Yes.

17 Q I said "Jones Collection," not "The Jones
18 Collection." Did your research find any
19 registration of the designation "Jones Collection,"
20 which includes merely a surname, and the term
21 "collection," as used on either furniture or homes
22 or home designs?

23 MR. DAVIS: Objection. You can answer.

24 A No.

25 BY MR. JONES:

1 Q Looking at Exhibit 12, please, Applicant's
2 Exhibit 12. Looking at the second page of that
3 exhibit, and the third page and the fourth page.

4 Isn't it true that the mark made the
5 subject of each of those three registrations is the
6 designation "The Hamilton Collection"?

7 A Yes.

8 Q Did you find any issued registration or --
9 did you find any issued registration for the use of
10 the mark "Hamilton Collection" for use on either
11 furniture or homes or home designs?

12 A I did not pull the Registration
13 Certificate for "Hamilton Collection."

14 Q So you don't know of any registration of
15 the designation "Hamilton Collection" for use on
16 homes, home designs, or furniture, do you?

17 A I do not.

18 Q Okay. And isn't it true that the mark
19 made the subject of the three registrations of --
20 shown in Applicant's Exhibit 12, include, in
21 addition to the surname "Hamilton" and the term
22 "collection," an additional word?

23 A Yes.

24 Q And would you agree with me that the term
25 "The Hamilton" is not merely a surname?

1 MR. DAVIS: Objection.

2 A Yes.

3 BY MR. JONES:

4 Q Would you agree with me that the term "The
5 Jones" is not merely a surname?

6 MR. DAVIS: Objection. You can answer.

7 A Yes.

8 BY MR. JONES:

9 Q Would you agree with me that the term "The
10 Wallace" is not -- excuse me, "The Phillips" is not
11 merely a surname?

12 MR. DAVIS: Objection.

13 A Yes.

14 BY MR. JONES:

15 Q Isn't it true that in each of the three
16 registrations in Exhibit 12 for the designation "The
17 Hamilton Collection," the term "collection" was
18 disclaimed?

19 A Yes.

20 Q Isn't it true that none of the three
21 registrations of "The Hamilton Collection" shown in
22 Exhibit 12 pertain to either furniture or homes or
23 home designs?

24 A That's correct.

25 Q Pardon?

1 A That's correct. They are not.

2 Q Looking now at Exhibit 13, please. The
3 second page of Exhibit 13 pertains to or shows a
4 registration of the designation "Stewart
5 Collection." Do you see that?

6 A Yes.

7 Q Did you find -- strike that. Does this
8 registration pertain to the use of the designation
9 "Stewart Collection" on either furniture or homes or
10 home designs?

11 A No.

12 Q Instead, it pertains to the use of the
13 term "Stewart Collection" in conjunction with motion
14 picture, videotape production services, doesn't it?

15 A Yes.

16 Q Okay. Turn now to the next exhibit, which
17 is Applicant's Exhibit 14. The second page is a
18 reg -- registration of the designation "The Phillips
19 Collection"; correct?

20 A Correct.

21 Q And the designation made the subject of
22 that registration consists of a term, in addition to
23 the surname "Phillips" and the term "collection,"
24 doesn't it?

25 A Yes.

1 Q And you'll see in that registration it
2 appears that the term "collection" was disclaimed.
3 Do you see that?

4 A Yes.

5 Q Do you have any understanding of why it
6 was disclaimed?

7 A No.

8 Q Okay. Is the designation "The Phillips
9 Collection," as shown in the second page of
10 Exhibit 14, registered for use in conjunction with
11 either furniture or homes or home designs?

12 A No.

13 Q Is it registered for the use in
14 conjunction with any goods as opposed to services?

15 A I guess the postcards and notecards are
16 goods.

17 Q But it says, doesn't it, for, quote,
18 retail, art museum shop services featuring
19 postcards, notecards, art reproductions, et cetera,
20 doesn't it?

21 A It does say that.

22 Q And it's in Class 42, isn't it? Do you
23 see at the end of the listing of the services, in
24 Class 42, right before the first use?

25 A Yes.

1 Q Do you see that?

2 A I do.

3 Q Okay. Turning to Applicant's Exhibit 15.

4 The second page is a copy of a registration of the
5 designation "Wallace Collection," isn't it?

6 A Yes.

7 Q And do you see that the term "collection"
8 is disclaimed in that registration?

9 A Yes.

10 Q Does that registration cover any
11 furniture, homes, or home designs?

12 A No.

13 Q Turning to Exhibit 16. Included within
14 Exhibit 16 are several registrations of the
15 designation Dale Earnhardt, J-R period or Dale
16 Earnhardt, Jr.; correct?

17 A Correct.

18 Q Either in nonstylized format or in script
19 form; correct?

20 A Were you asking about -- what are you
21 asking?

22 Q What is the -- what are the designations
23 that are covered by the registration of Exhibit 16
24 from the second page onward?

25 A Right. Script and nonscript, okay.

1 Q Dale Earnhardt, J-R; correct?

2 A Correct.

3 Q And the term Dale Earnhardt, J-R includes,
4 in addition to the surname Earnhardt, the given name
5 Dale and the J-R suffix, doesn't it?

6 A Yes.

7 Q Did you find any registrations of
8 "Earnhardt" alone?

9 A I can't remember.

10 Q Did you look for any?

11 A I don't think I looked for "Earnhardt" by
12 itself.

13 Q Isn't it true that in the registrations
14 which are included in Exhibit 16 and the
15 registrations which are included in Exhibit 18, that
16 none of those registrations reflects -- or excuse
17 me, pertains to a mark that is merely a surname?

18 MR. DAVIS: Objection. You can answer.

19 A I'm not sure.

20 BY MR. JONES:

21 Q Are any of the Exhibits 16 and 18
22 registrations of marks that are merely surnames?

23 MR. DAVIS: Objection.

24 A I mean, they contain both names.

25 BY MR. JONES:

1 Q So they're not merely surnames, are they?

2 A No.

3 Q Now, you've testified that you did not
4 locate in your research, rather by design or not,
5 any registration of "Earnhardt" by itself; is that
6 correct?

7 A That's correct.

8 Q Did you locate in your research any
9 registration of the designation "Earnhardt
10 Collection"?

11 A I don't think so.

12 Q Turning to Exhibit 20, why did you conduct
13 Google searches for the terms "collection apparel,"
14 "collection art," "collection jewelry," "collection
15 shoe," "collection stamp," "collection baseball
16 cards," and "collection birthday card"?

17 MR. DAVIS: And before you answer, I'm
18 just going to caution that when you answer the
19 question, you should not reveal anything that
20 you've discussed with me, counsel.

21 A Okay. Because it was part of the research
22 request.

23 BY MR. JONES:

24 Q That's what you were instructed to do, in
25 other words?

1 A If it was part of the request.

2 Q Did you decide on your own volition to
3 conduct a Google search for any of those terms that
4 I just listed a moment ago?

5 A I guess not in the way that I always get
6 asked in the research request to do certain tasks.

7 Q Did you conduct any searches pertaining to
8 any Google searches pertaining to combinations of
9 terms, one of which was "collection" and the other
10 was "furniture"?

11 A No.

12 Q Did you conduct any Google searches
13 pertaining to terms, one of which was "collection"
14 and the other was "homes" or "home designs"?

15 A No.

16 Q Would you agree with me that the term
17 "collection" is used to refer -- is commonly used to
18 refer to a group or assemblage of apparel items?

19 A Yes.

20 Q Would you agree with me that the term
21 "collection" is commonly used to refer to a group or
22 assemblage of art items?

23 A Yes.

24 Q Would you agree with me that the term
25 "collection" is widely used to refer to a group or

1 collection of furniture items?

2 A Yes.

3 Q Would you agree with me that the term
4 "collection" is widely used to refer to a group of
5 home or home designs?

6 A I don't -- I don't know about that one. I
7 don't have any knowledge about that.

8 MR. JONES: No further questions.

9 MR. DAVIS: All right. I don't have
10 anything else. Thank you.

11 THE COURT REPORTER: Will the witness read
12 and sign?

13 MR. DAVIS: Yes.

14 MR. JONES: And I'll take the same order
15 for the same stuff that everybody else has been
16 getting.

17 (Deposition concluded at 11:52 a.m.)
18
19
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25

1 ERRATA SHEET

2 To assist you in making any
3 corrections, please use the form below. If
4 supplemental or additional pages are necessary,
5 please furnish same and attach them to this errata
6 sheet.

7 - - -

8 I, the undersigned, STEPHANIE NANCE, do
9 hereby certify that I have read the foregoing
10 deposition and that to the best of my knowledge said
11 deposition is true and accurate (with the exception
12 of the following corrections listed below).

13 ERRATA SHEET

14 Case: TERESA EARNHARDT vs. KERRY EARNHARDT, INC.

15 Witness: STEPHANIE NANCE

16 "T Tabs" should be
17 Page 10 Line 1 Correction "TTAB's"

18 Reason for Change: transcription error

19 Page 11 Line 16 Correction "T Tabs" should be
"TTAB's"

20 Reason for Change: transcription error

21 Page 12 Line 2 Correction "will" should be "did"

22 Reason for Change: transcription error

23 Page 21 Line 3 Correction "reflected" should
be "reflect"

24 Reason for Change: transcription error

25 Page _____ Line _____ Correction _____

| | | |
|----|---------------------|-----------------|
| 1 | Reason for Change: | _____ |
| 2 | Page_____ Line_____ | Correction_____ |
| 3 | Reason for Change: | _____ |
| 4 | Page_____ Line_____ | Correction_____ |
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| 6 | Page_____ Line_____ | Correction_____ |
| 7 | Reason for Change: | _____ |
| 8 | Page_____ Line_____ | Correction_____ |
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| 22 | Page_____ Line_____ | Correction_____ |
| 23 | Reason for Change: | _____ |
| 24 | Page_____ Line_____ | Correction_____ |
| 25 | Reason for Change: | _____ |

1 Case: TERESA EARNHARDT vs. KERRY EARNHARDT, INC.

2 Witness: STEPHANIE NANCE

3

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Signature of Witness

7

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9

10 STATE OF NORTH Carolina

11 COUNTY OF Mecklenburg

12

13 Subscribed and sworn to before me this 24th

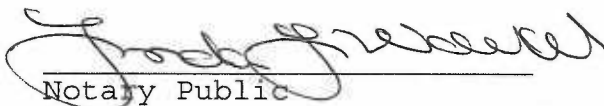
14 day of November, 2014

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Notary Public

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My Commission Expires: March 15 2019

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1 STATE OF NORTH CAROLINA

2 COUNTY OF MECKLENBURG

3

4 CERTIFICATE OF TRANSCRIPT

5

6 I, Beverly J. Gramm, Registered

7 Professional Reporter and Notary Public in and for

8 the aforesaid county and state, do hereby certify

9 that the foregoing deposition of STEPHANIE NANCE,

10 was taken by me and reduced to typewriting under my

11 direction; and the transcript is a true record of

12 the testimony given by the witness.

13 I further certify that I am neither

14 attorney or counsel for, nor related to or employed

15 by any attorney or counsel employed by the parties

16 hereto or financially interested in the action.

17 This the 7th day of November, 2014.

18 

19 -----

20 BEVERLY J. GRAMM

21 Registered Professional Reporter

22 My Commission Expires: April 23, 2018

23

24

25



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EXHIBIT
Applicant's Ex. 10
Opposition No. 91205331

| | Serial Number | Reg. Number | Word Mark | Check Status | Live/Dead |
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| 1 | 86427946 | | THE KIRBY COLLECTION | TSDR | LIVE |
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| 3 | 86295735 | | FEEL LAVANDA COLLECTION | TSDR | LIVE |
| 4 | 86430475 | | ROBB REPORT COLLECTION | TSDR | LIVE |
| 5 | 86427490 | | THE ELIZABETH TAYLOR JEWELRY COLLECTION | TSDR | LIVE |
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| 10 | 86302719 | | THE METROPOLITAN COLLECTION | TSDR | LIVE |
| 11 | 86295780 | | CAMOMILL ARGAN OIL COLLECTION | TSDR | LIVE |
| 12 | 86286013 | | INTERNATIONAL STRINGS COLLECTION | TSDR | LIVE |
| 13 | 86244590 | | AUBERGE RESORTS COLLECTION | TSDR | LIVE |
| 14 | 86429153 | | USADA PAPERLESS SAMPLE COLLECTION SYSTEM | TSDR | LIVE |
| 15 | 86428339 | | SOPHIA & KATE COLLECTION | TSDR | LIVE |
| 16 | 86334283 | | ICED COFFEE COLLECTION | TSDR | LIVE |
| 17 | 86233674 | | FLUTTERING HEART DIAMOND COLLECTION | TSDR | LIVE |
| 18 | 86149425 | | YMA COLLECTION | TSDR | DEAD |
| 19 | 86127353 | | AUTHENTIC COLLECTION | TSDR | LIVE |
| 20 | 86071813 | | SILVER RIDGE COLLECTION | TSDR | LIVE |
| 21 | 86048946 | | COLLECTION B NEW YORK | TSDR | LIVE |
| 22 | 86424230 | | MONTE CAPONE COLLECTION | TSDR | LIVE |
| 23 | 86322925 | | PERFORMANCE COLLECTION | TSDR | LIVE |

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|----|----------|--|-----------------------------------|------|------|
| 24 | 86279144 | | SO-SOFT COLLECTION | TSDR | DEAD |
| 25 | 86051878 | | CONNECTION2COLLECTIONS.COM | TSDR | LIVE |
| 26 | 86423353 | | NALEDI COLLECTION | TSDR | LIVE |
| 27 | 86380095 | | SPICEWOOD COLLECTION | TSDR | LIVE |
| 28 | 86352997 | | WARREN CHRISTOPHER COLLECTION | TSDR | LIVE |
| 29 | 86302205 | | OLAY SUMMER COLLECTION | TSDR | LIVE |
| 30 | 86293971 | | PERCEPTION COLLECTION | TSDR | LIVE |
| 31 | 86290397 | | ANDIA JEWELRY COLLECTION | TSDR | LIVE |
| 32 | 86275423 | | COLLECTION ONE I | TSDR | LIVE |
| 33 | 86267443 | | EMIRATES COLLECTION | TSDR | LIVE |
| 34 | 86266029 | | BRITISH COLLECTION | TSDR | LIVE |
| 35 | 86242117 | | CATHEDRAL COLLECTION RP | TSDR | LIVE |
| 36 | 86186327 | | COLLECTION EXCLUSIVE | TSDR | LIVE |
| 37 | 86185748 | | CATHAY COLLECTION | TSDR | LIVE |
| 38 | 86137472 | | ART COLLECTION | TSDR | DEAD |
| 39 | 86128001 | | KRAVE KOLLECTION | TSDR | DEAD |
| 40 | 86098573 | | MARY ROSE COLLECTION | TSDR | LIVE |
| 41 | 86422033 | | THE COLLECTION COLLECTOR | TSDR | LIVE |
| 42 | 86359735 | | FAIRY GARDEN COLLECTION | TSDR | LIVE |
| 43 | 86209904 | | MOE'S HOME COLLECTION | TSDR | LIVE |
| 44 | 86141273 | | BABY FAB COLLECTIONS | TSDR | DEAD |
| 45 | 86167366 | | NEWPORT HOME COLLECTION | TSDR | LIVE |
| 46 | 86421037 | | AARTY COLLECTION | TSDR | LIVE |
| 47 | 86315689 | | METRO LOFT COLLECTION | TSDR | LIVE |
| 48 | 86246288 | | TROY JAMES. THE BOYS COLLECTION T | TSDR | LIVE |
| 49 | 86156425 | | THE I'M A GIRL COLLECTION BOOKS | TSDR | LIVE |
| 50 | 86141109 | | NUE COLLECTION | TSDR | DEAD |

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| 17 | 86233674 | | FLUTTERING HEART DIAMOND COLLECTION | TSDR | LIVE |
| 18 | 86127353 | | AUTHENTIC COLLECTION | TSDR | LIVE |
| 19 | 86071813 | | SILVER RIDGE COLLECTION | TSDR | LIVE |
| 20 | 86048946 | | COLLECTION B NEW YORK | TSDR | LIVE |
| 21 | 86424230 | | MONTE CAPONE COLLECTION | TSDR | LIVE |
| 22 | 86322925 | | PERFORMANCE COLLECTION | TSDR | LIVE |
| 23 | 86051878 | | CONNECTION2COLLECTIONS.COM | TSDR | LIVE |

| | | | | | |
|----|----------|--|--|------|------|
| 24 | 86423353 | | NALEDI COLLECTION | TSDR | LIVE |
| 25 | 86380095 | | SPICEWOOD COLLECTION | TSDR | LIVE |
| 26 | 86352997 | | WARREN CHRISTOPHER COLLECTION | TSDR | LIVE |
| 27 | 86302205 | | OLAY SUMMER COLLECTION | TSDR | LIVE |
| 28 | 86293971 | | PERCEPTION COLLECTION | TSDR | LIVE |
| 29 | 86290397 | | ANDIA JEWELRY COLLECTION | TSDR | LIVE |
| 30 | 86275423 | | COLLECTION ONE I | TSDR | LIVE |
| 31 | 86267443 | | EMIRATES COLLECTION | TSDR | LIVE |
| 32 | 86266029 | | BRITISH COLLECTION | TSDR | LIVE |
| 33 | 86242117 | | CATHEDRAL COLLECTION RP | TSDR | LIVE |
| 34 | 86186327 | | COLLECTION EXCLUSIVE | TSDR | LIVE |
| 35 | 86185748 | | CATHAY COLLECTION | TSDR | LIVE |
| 36 | 86098573 | | MARY ROSE COLLECTION | TSDR | LIVE |
| 37 | 86422033 | | THE COLLECTION COLLECTOR | TSDR | LIVE |
| 38 | 86359735 | | FAIRY GARDEN COLLECTION | TSDR | LIVE |
| 39 | 86209904 | | MOE'S HOME COLLECTION | TSDR | LIVE |
| 40 | 86167366 | | NEWPORT HOME COLLECTION | TSDR | LIVE |
| 41 | 86421037 | | AARTY COLLECTION | TSDR | LIVE |
| 42 | 86315689 | | METRO LOFT COLLECTION | TSDR | LIVE |
| 43 | 86246288 | | TROY JAMES. THE BOYS COLLECTION T | TSDR | LIVE |
| 44 | 86156425 | | THE I'M A GIRL COLLECTION BOOKS | TSDR | LIVE |
| 45 | 86420481 | | BCS AFRICAN COLLECTION | TSDR | LIVE |
| 46 | 86419779 | | COLECCION DE ORO LAS MEJORES MANUALIDADES | TSDR | LIVE |
| 47 | 86419539 | | THE BARISTA COLLECTION | TSDR | LIVE |
| 48 | 86330361 | | THE LONE WOLF COLLECTION | TSDR | LIVE |
| 49 | 86329222 | | RUSTIC ROMANCE COLLECTION | TSDR | LIVE |
| 50 | 86329129 | | CHAS COLLECTION | TSDR | LIVE |

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Current Search: S5: (jones collection)[COMB] docs: 8 occ: 34

| | Serial Number | Reg. Number | Word Mark | Check Status | Live/Dead |
|---|---------------|-------------|--|--------------|-----------|
| 1 | 86026075 | | JJ JENNIFER JONES COLLECTION | TSDR | LIVE |
| 2 | 86018229 | | JENNIFER JONES COLLECTION | TSDR | LIVE |
| 3 | 78835279 | 3362376 | PAUL M. JONES COLLECTION | TSDR | LIVE |
| 4 | 78366986 | 2980952 | JONES NEW YORK COLLECTION | TSDR | LIVE |
| 5 | 76534288 | | GREG JONES SIGNATURE COLLECTION | TSDR | DEAD |
| 6 | 76320744 | 2680187 | THE TOM JONES COLLECTION | TSDR | DEAD |
| 7 | 75690781 | 2562189 | THE JONES COLLECTION | TSDR | LIVE |
| 8 | 74254389 | | SHIRLEY JONES AMERICAN BEAUTY COLLECTION | TSDR | DEAD |

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EXHIBIT
Applicant's Ex. 11
Opposition No. 91205331

Int. Cl.: 20

Prior U.S. Cls.: 2, 13, 22, 25, 32, and 50

United States Patent and Trademark Office

Reg. No. 2,562,189

Registered Apr. 16, 2002

**TRADEMARK
PRINCIPAL REGISTER**

THE JONES COLLECTION

CREATIVE CUSTOM FURNISHINGS CORPORATION (CANADA CORPORATION)
350 OAKDALE ROAD
TORONTO, ONTARIO, CANADA M3N 1W3

FIRST USE 6-0-1999; IN COMMERCE 6-0-1999.

FOR: CUSTOM-DESIGNED RESIDENTIAL FURNITURE, NAMELY, BEDROOM FURNITURE, LIVING ROOM FURNITURE, KITCHEN FURNITURE AND DINING ROOM FURNITURE, AND CUSTOM-DESIGNED HOTEL FURNITURE, NAMELY, FURNITURE FOR HOTEL ROOMS AND SUITES AND FOR THE PUBLIC AREAS IN HOTELS, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COLLECTION", APART FROM THE MARK AS SHOWN.

SN 75-690,781, FILED 4-26-1999.

BARBARA BROWN, EXAMINING ATTORNEY



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Current Search: S6: (hamilton collection)[COMB] docs: 10 occ: 40

| | Serial Number | Reg. Number | Word Mark | Check Status | Live/Dead |
|----|---------------|-------------|---|--------------|-----------|
| 1 | 76082135 | | LEE HAMILTON COLLECTION | TSDR | DEAD |
| 2 | 75894852 | 2469237 | THE HAMILTON COLLECTION | TSDR | DEAD |
| 3 | 75406153 | 2223416 | HAMILTON COLLECTION | TSDR | DEAD |
| 4 | 75356722 | 2262134 | THE HAMILTON COLLECTION | TSDR | LIVE |
| 5 | 75356721 | 2258687 | THE HAMILTON COLLECTION | TSDR | DEAD |
| 6 | 75356460 | 2256530 | THE HAMILTON COLLECTION | TSDR | LIVE |
| 7 | 75356458 | 2256529 | THE HAMILTON COLLECTION | TSDR | LIVE |
| 8 | 74339598 | | THE HAMILTON COLLECTION SEAL OF EXCELLENCE HERITAGE DOLLS | TSDR | DEAD |
| 9 | 74227676 | 1731231 | HAMILTON COLLECTION | TSDR | DEAD |
| 10 | 73629305 | 1459819 | THE HAMILTON COLLECTION | TSDR | DEAD |

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EXHIBIT
Applicant's Ex. 12
Opposition No. 91205331

Int. Cl.: 21

Prior U.S. Cls.: 2, 13, 23, 29, 30, 33, 40 and 50

Reg. No. 2,262,134

United States Patent and Trademark Office

Registered July 20, 1999

**TRADEMARK
PRINCIPAL REGISTER**

THE HAMILTON COLLECTION

**HAMILTON COLLECTION, INC., THE (FLORIDA CORPORATION)
4810 EXECUTIVE PARK COURT
JACKSONVILLE, FL 32216**

**FOR: FIGURINES AND COMMEMORATIVE
OR COLLECTIBLE DRINKING VESSELS AND
PLATES MADE OF PORCELAIN OR CERAMIC,
IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40
AND 50).**

**FIRST USE 5-30-1973; IN COMMERCE
5-30-1973.**

**NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "COLLECTION", APART
FROM THE MARK AS SHOWN.**

SEC. 2(F).

SER. NO. 75-356,722, FILED 9-15-1997.

LALITHA MANI, EXAMINING ATTORNEY

Int. Cl.: 20

Prior U.S. Cls.: 2, 13, 22, 25, 32 and 50

Reg. No. 2,256,529

United States Patent and Trademark Office

Registered June 29, 1999

**TRADEMARK
PRINCIPAL REGISTER**

THE HAMILTON COLLECTION

HAMILTON COLLECTION, INC., THE (FLORIDA CORPORATION)
4810 EXECUTIVE PARK COURT
JACKSONVILLE, FL 32216

FOR: FIGURINES MADE OF RESIN OR
PLASTIC, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32
AND 50).

FIRST USE 3-15-1981; IN COMMERCE
3-15-1981.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "COLLECTION", APART
FROM THE MARK AS SHOWN.

SEC. 2(F).

SER. NO. 75-356,458, FILED 9-15-1997.

LALITHA MANI, EXAMINING ATTORNEY

Int. Cl.: 28

Prior U.S. Cls.: 22, 23, 38 and 50

Reg. No. 2,256,530

United States Patent and Trademark Office

Registered June 29, 1999

**TRADEMARK
PRINCIPAL REGISTER**

THE HAMILTON COLLECTION

HAMILTON COLLECTION, INC., THE (FLORIDA CORPORATION)
4810 EXECUTIVE PARK COURT
JACKSONVILLE, FL 32216

FOR: DOLLS AND CHRISTMAS TREE ORNAMENTS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 12-4-1984; IN COMMERCE 12-4-1984.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COLLECTION", APART FROM THE MARK AS SHOWN.

SEC. 2(F).

SER. NO. 75-356,460, FILED 9-15-1997.

LALITHA MANI, EXAMINING ATTORNEY



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| | Serial Number | Reg. Number | Word Mark | Check Status | Live/Dead |
|---|---------------|-------------|---|--------------|-----------|
| 1 | 86320349 | | MARTHA STEWART COLLECTION | TSDR | LIVE |
| 2 | 86320147 | | WHIM MARTHA STEWART COLLECTION | TSDR | LIVE |
| 3 | 86225781 | | MARTHA STEWART PETS BEST IN SHOW COLLECTION | TSDR | LIVE |
| 4 | 77624534 | 4164857 | MARTHA STEWART COLLECTION ALLERGY WISE | TSDR | LIVE |
| 5 | 74166074 | 1689378 | STEWART COLLECTION | TSDR | LIVE |

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EXHIBIT
Applicant's Ex. 13
Opposition No. 91205331

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, 106 and 107

United States Patent and Trademark Office

Reg. No. 1,689,378

Registered May 26, 1992

**SERVICE MARK
PRINCIPAL REGISTER**

STEWART COLLECTION

**FRASER, REGINA S. (UNITED STATES CITIZEN), DBA THE STEWART COLLECTION AND DBA STEWART COLLECTION PRODUCTIONS
711 EDELWEISS DRIVE
LAKE ZURICH, IL 60047**

FOR: MOTION PICTURE VIDEOTAPE PRODUCTIONS, IN CLASS 41 (U.S. CLS. 100, 101, 106 AND 107).

FIRST USE 9-15-1984; IN COMMERCE 9-15-1984.

SER. NO. 74-166,074, FILED 5-13-1991.

TOMAS V. VLCEK, EXAMINING ATTORNEY



United States Patent and Trademark Office

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Refine Search (phillips collection)[COMB]

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Current Search: S12: (phillips collection)[COMB] docs: 5 occ: 20

| | Serial Number | Reg. Number | Word Mark | Check Status | Live/Dead |
|---|---------------|-------------|-------------------------|--------------|-----------|
| 1 | 85390326 | 4373041 | THE PHILLIPS COLLECTION | TSDR | LIVE |
| 2 | 76635366 | 3137645 | PHILGOOD THE COLLECTION | TSDR | LIVE |
| 3 | 73566053 | 1414249 | THE PHILLIPS COLLECTION | TSDR | DEAD |
| 4 | 73432436 | 1440219 | THE PHILLIPS COLLECTION | TSDR | LIVE |
| 5 | 73432435 | 1440218 | THE PHILLIPS COLLECTION | TSDR | LIVE |

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Applicant's Ex. 14
Opposition No. 91205331

Int. Cls.: 41 and 42

Prior U.S. Cls.: 101 and 107

United States Patent and Trademark Office

Reg. No. 1,440,219

Registered May 19, 1987

**SERVICE MARK
PRINCIPAL REGISTER**

THE PHILLIPS COLLECTION

PHILLIPS COLLECTION, THE (D.C. NON-
PROFIT CORPORATION)
1600 21ST ST., N.W.
WASHINGTON, DC 20009

FOR: ART MUSEUM SERVICES, IN CLASS
41 (U.S. CL. 107).

FIRST USE 1-1-1932; IN COMMERCE
1-1-1932.

FOR: RETAIL ART MUSEUM SHOP SERV-
ICES FEATURING POSTCARDS, NOTE
CARDS, ART REPRODUCTIONS, CATALOGS,

BOOKS, SLIDES AND ITEMS RELATED TO
THE MUSEUMS COLLECTION, IN CLASS 42
(U.S. CL. 101).

FIRST USE 1-1-1951; IN COMMERCE
1-1-1951.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "COLLECTION", APART
FROM THE MARK AS SHOWN.

SER. NO. 432,436, FILED 6-28-1983.

G. MAYERSCHOFF, EXAMINING ATTORNEY



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Current Search: S13: (wallace collection)[COMB] docs: 2 occ: 8

| | Serial Number | Reg. Number | Word Mark | Check Status | Live/Dead |
|---|---------------|-------------|-------------------------------------|--------------|-----------|
| 1 | 79034076 | 3418542 | WALLACE COLLECTION | TSDR | LIVE |
| 2 | 75143463 | 2187096 | WALLACE ITALIAN STERLING COLLECTION | TSDR | LIVE |

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Applicant's Ex. 15
Opposition No. 91205331

Int. Cl.: 15

Prior U.S. Cls.: 2, 21 and 36

United States Patent and Trademark Office

Reg. No. 3,418,542

Registered Apr. 29, 2008

**TRADEMARK
PRINCIPAL REGISTER**

Wallace Collection

KERSTIN VOIGT (FED REP GERMANY INDIVIDUAL)
GEWERBEPARK 22
08258 MARKNEUKIRCHEN
FED REP GERMANY

OWNER OF INTERNATIONAL REGISTRATION
0911946 DATED 12-6-2006, EXPIRES 12-6-2016.

FOR: MUSICAL INSTRUMENTS; ACCESSORIES
FOR MUSICAL INSTRUMENTS, NAMELY
MOUTHPIECES FOR MUSICAL INSTRUMENTS
AND MUTES FOR MUSICAL INSTRUMENTS, IN
CLASS 15 (U.S. CLS. 2, 21 AND 36).

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "COLLECTION", APART FROM
THE MARK AS SHOWN.

SER. NO. 79-034,076, FILED 12-6-2006.

PRIORITY DATE OF 6-27-2006 IS CLAIMED.

COLLEEN KEARNEY, EXAMINING ATTORNEY



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Current Search: S19: (Dale Earnhardt Jr)[COMB] docs: 12 occ: 80

| | Serial Number | Reg. Number | Word Mark | Check Status | Live/Dead |
|----|---------------|-------------|--------------------|--------------|-----------|
| 1 | 77564370 | | DALE EARNHARDT JR | TSDR | DEAD |
| 2 | 77564278 | | DALE EARNHARDT JR | TSDR | DEAD |
| 3 | 77564277 | | DALE EARNHARDT JR | TSDR | DEAD |
| 4 | 77564268 | 3775651 | DALE EARNHARDT JR | TSDR | LIVE |
| 5 | 77564266 | 3775650 | DALE EARNHARDT JR | TSDR | LIVE |
| 6 | 77564265 | | DALE EARNHARDT JR | TSDR | DEAD |
| 7 | 77564262 | | DALE EARNHARDT JR | TSDR | DEAD |
| 8 | 77564260 | 3775649 | DALE EARNHARDT JR | TSDR | LIVE |
| 9 | 77564259 | 3850682 | DALE EARNHARDT JR | TSDR | LIVE |
| 10 | 77564258 | 3775648 | DALE EARNHARDT JR | TSDR | LIVE |
| 11 | 76077199 | 2673723 | DALE EARNHARDT JR. | TSDR | DEAD |
| 12 | 76077198 | 2673722 | DALE EARNHARDT JR. | TSDR | LIVE |

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EXHIBIT

Applicant's Ex. 16

Opposition No. 91205331

Int. Cls.: 5, 6, 8, 9, 11, 12, 14, 16, 18, 20, 21, 24, 25, 26, 27, 28, 30 and 41

Prior U.S. Cls.: 1, 2, 3, 5, 6, 12, 13, 14, 18, 19, 20, 21,
22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37,
38, 39, 40, 41, 42, 44, 46, 50, 51, 52, 100, 101 and 107

Reg. No. 2,673,722

United States Patent and Trademark Office

Registered Jan. 14, 2003

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

DALE EARNHARDT JR.

EARNHARDT, R. DALE (UNITED STATES IN-
DIVIDUAL)
1675 CODDLE CREEK HIGHWAY
MOORESVILLE, NC 28115

FOR: AIR FRESHENERS FOR AUTOMOBILES,
IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: METAL ITEMS, NAMELY, KEY RINGS,
KEY CHAINS, KEY CLIPS, KEY RACKS, MONEY
CLIPS, COLLECTOR TIN CONTAINERS SOLD EMP-
TY, AUTOMOBILE LICENSE PLATES, AUTOMO-
BILE LICENSE PLATE FRAMES, ORNAMENTS
AND DECORATIVE STREET SIGNS, NONE OF
THE FOREGOING MADE OF PRECIOUS METALS,
IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: KNIVES AND POCKET KNIVES, MANI-
CURE SETS AND COLLECTOR SPOONS, IN CLASS
8 (U.S. CLS. 23, 28 AND 44).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: COMPUTER PERIPHERALS, NAMELY
COMPUTER MOUSE AND MOUSE PADS; COMPU-
TER SOFTWARE, NAMELY, COMPUTER RACE
GAMES AND COMPUTER PROGRAMS FEATUR-
ING SCREEN SAVERS; TELEPHONES; WALKIE-
TALKIES; RADIOS; DECORATIVE MAGNETS; CEL-
LULAR PHONE CASES AND COMPACT DISK
ACCESSORIES, NAMELY, STORAGE CASES AND
CARRYING CASES, IN CLASS 9 (U.S. CLS. 21, 23, 26,
36 AND 38).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: FLASHLIGHTS, IN CLASS 11 (U.S. CLS. 13,
21, 23, 31 AND 34).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: AUTOMOBILE AND TRUCK WINDSHIELD
SUN SHADES AND AUTOMOBILE SPLASH
GUARDS, IN CLASS 12 (U.S. CLS. 19, 21, 23, 31, 35
AND 44).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: JEWELRY, NAMELY, EARRINGS, NECK-
LACES, BRACELETS, ID BRACELETS, BARR-
ETTES, PINS, LAPEL PINS, AND BELT BUCKLES,
ALL OF PRECIOUS METALS; WATCHES, AND
POCKET WATCHES; CLOCKS; WALL CLOCKS
AND WATCH BANDS, IN CLASS 14 (U.S. CLS. 2,
27, 28 AND 50).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: PAPER GOODS AND PRINTED MATTER,
NAMELY, DECALS, STICKERS, BUMPER STICK-
ERS, WINDOW STICKERS, CALENDARS, POST-
CARDS, NOTE PADS, CUBES OF NOTE PAPER,
FOLDERS, TRADING CARDS, PLAYING CARDS,
MOUNTED AND UNMOUNTED PHOTOGRAPHS,
POSTERS, THREE-RING BINDERS, LETTER OPEN-
ERS, CAKE DECORATING PRODUCTS AND
CHECKBOOK COVERS, IN CLASS 16 (U.S. CLS. 2,
5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: LEATHER, IMITATION LEATHER, OR
FABRIC GOODS, NAMELY, MONEY CLIPS, COIN
PURSES, CREDIT CARD CASES, BUSINESS CARD
CASES, TRAVEL CASES, PORTFOLIOS, LUGGAGE,
BOOK BAGS, BACKPACKS, BELT BAGS, DUFFEL

BAGS, HANDBAGS, WALLETS, TOTE BAGS, MESSENGER BAGS, ATTACHE CASES, AND SHOT GLASS BAGS; COASTERS, UMBRELLAS AND UMBRELLA BAGS, BEACH UMBRELLAS, AND GOLF UMBRELLAS, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: CHAIRS, FOLDING CHAIRS AND CARRYING CASES THEREFOR, OTTOMANS, STADIUM SEAT CUSHIONS, PICTURE FRAMES, PHOTO STANDS, KEEPSAKE BOXES, SHADOW BOXES, PLAQUES, NON-METAL KEY RINGS, LANYARDS, NON-METAL KEY CHAINS, NON-METAL KEY RACKS, DECORATIVE TINS, NON-METAL COLLECTOR TINS, WASTEBASKETS, TAPESTRY PILLOWS, PLASTIC ANTENNA FLAGS, PICTURE TELESCOPE KEY CHAINS, PLUSH KEY CHAINS, PLASTIC NOVELTY LICENSE PLATES AND PLASTIC BANNERS AND PLASTIC PENNANTS, IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: HOUSEWARES AND GLASS, NAMELY, DRINKING GLASSES, SHOT GLASSES, CUPS, AND MUGS, COLLECTOR PLATES, SALT AND PEPPER SHAKERS, RUBBER, PLASTIC, OR FOAM INSULATING BEVERAGE HOLDERS, RUBBER, PLASTIC, OR FOAM INSULATING FOOD CONTAINERS AND COOLERS, WATER BOTTLES SOLD EMPTY, HIP FLASKS, STEINS, WASTEBASKETS, WIND CHIMES, PLASTIC COASTERS, RESIN FIGURINES, AND SCULPTURES, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: BANNERS, PENNANTS, AND FLAGS NOT MADE OF PAPER OR PLASTIC; AND BEDDING SETS CONSISTING OF SHEETS, PILLOW CASES, PILLOW SHAMS, COMFORTERS, AND DUST RUFFLES; AFGHANS, FABRIC WALL HANGINGS, WOOD PRODUCTS WITH TAPESTRY INSERTS, TAPESTRY STOCKINGS, IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: CLOTHING, NAMELY, CAPS, HATS, SHIRTS, T-SHIRTS, POLO SHIRTS, WINDSHIRTS, FLEECE PULLOVERS, LADIES' NIGHT SHIRTS, JACKETS, JEANS, SHORTS, PANTS, OVERALLS, RAINCOATS, RAIN PONCHOS, COSTUMES,

NAMELY, DRIVER SUITS, CLOTH BABY BIBS, AND BELTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: ORNAMENTAL NOVELTY PINS AND CLIPS FOR CLOTHING, AND BELT BUCKLES NOT OF PRECIOUS METAL, COLLECTOR THIMBLES, HAIR SCRUNCHIES, SHOELACES AND DECORATIVE ORNAMENTAL TAGS FOR SHOELACES, IN CLASS 26 (U.S. CLS. 37, 39, 40, 42 AND 50).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: RUGS, MATS, AND WALLPAPER BORDERS AND AUTOMOBILE FLOOR MATS, IN CLASS 27 (U.S. CLS. 19, 20, 37, 42 AND 50).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: GOLF BALLS, GOLF BALL TAGS, BASEBALLS, YO-YOS, PLUSH ANIMALS, PLUSH TOY CARS, PLUSH COIN HOLDERS, FISHING ROD HOLSTERS, CONSTRUCTION TOYS, TOY BANKS, COLLECTOR DOLLS, MINIATURE CARS, MINIATURE AUTOMOBILE HOODS, MINIATURE AUTOMOBILE TRUNKS, MINIATURE AUTOMOBILE QUARTER PANELS, POOL CUES, POOL CUE CASES, SHOT BAGS, TOY AND MINIATURE DRIVER HELMETS AND TOY MODEL CAR KITS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: CANDY AND POPPED POPCORN, IN CLASS 30 (U.S. CL. 46).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

FOR: ENTERTAINMENT SERVICES IN THE NATURE OF PARTICIPATING IN PROFESSIONAL AUTOMOBILE RACES AND RELATED EXHIBITIONS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 2-0-1998; IN COMMERCE 2-0-1998.

OWNER OF U.S. REG. NOS. 1,644,237 AND 2,035,107.

THE NAME "DALE EARNHARDT JR." IDENTIFIES A LIVING INDIVIDUAL WHOSE CONSENT IS OF RECORD.

SER. NO. 76-077,198, FILED 6-23-2000.

JOHN E. MICHOS, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office



Reg. No. 3,775,648

Registered Apr. 13, 2010

Int. Cl.: 25

TRADEMARK

PRINCIPAL REGISTER

DEJ HOLDINGS, LLC (NORTH CAROLINA LIMITED LIABILITY COMPANY)
349 CAYUGA DRIVE
MOORESVILLE, NC 28117

FOR: HATS; JACKETS; JERSEYS; SHIRTS; T-SHIRTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 2-11-2009; IN COMMERCE 2-11-2009.

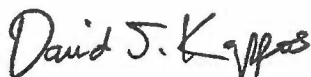
OWNER OF U.S. REG. NOS. 2,673,722 AND 2,673,723.

THE NAME(S), PORTRAIT(S), AND/OR SIGNATURE(S) SHOWN IN THE MARK IDENTIFIES
"DALE EARNHARDT, JR.", WHOSE CONSENT(S) TO REGISTER IS SUBMITTED.

THE MARK CONSISTS OF THE STYLIZED WORDS "DALE EARNHARDT JR".

SN 77-564,258, FILED 9-8-2008.

MATTHEW MCDOWELL, EXAMINING ATTORNEY



Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office



Reg. No. 3,775,649

Registered Apr. 13, 2010

Int. Cl.: 8

TRADEMARK

PRINCIPAL REGISTER

DEJ HOLDINGS, LLC (NORTH CAROLINA LIMITED LIABILITY COMPANY)
349 CAYUGA DRIVE
MOORESVILLE, NC 28117

FOR: POCKET KNIVES, IN CLASS 8 (U.S. CLS. 23, 28 AND 44).

FIRST USE 1-0-2008; IN COMMERCE 1-0-2008.

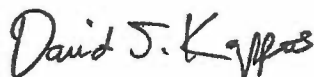
OWNER OF U.S. REG. NOS. 2,673,722 AND 2,673,723.

THE NAME(S), PORTRAIT(S), AND/OR SIGNATURE(S) SHOWN IN THE MARK IDENTIFIES
"DALE EARNHARDT, JR.", WHOSE CONSENT(S) TO REGISTER IS SUBMITTED.

THE MARK CONSISTS OF THE STYLIZED WORDS "DALE EARNHARDT JR".

SN 77-564,260, FILED 9-8-2008.

MATTHEW MCDOWELL, EXAMINING ATTORNEY



Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

Dale Earnhardt Jr

Reg. No. 3,775,650

Registered Apr. 13, 2010

Int. Cl.: 18

TRADEMARK

PRINCIPAL REGISTER

DEJ HOLDINGS, LLC (NORTH CAROLINA LIMITED LIABILITY COMPANY)
349 CAYUGA DRIVE
MOORESVILLE, NC 28117

FOR: LEATHER, IMITATION LEATHER, OR FABRIC GOODS, NAMELY, BOOK BAGS, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 2-11-2009; IN COMMERCE 2-11-2009.

OWNER OF U.S. REG. NOS. 2,673,722 AND 2,673,723.

THE NAME(S), PORTRAIT(S), AND/OR SIGNATURE(S) SHOWN IN THE MARK IDENTIFIES "DALE EARNHARDT, JR.", WHOSE CONSENT(S) TO REGISTER IS SUBMITTED.

THE MARK CONSISTS OF THE STYLIZED WORDS "DALE EARNHARDT JR".

SN 77-564,266, FILED 9-8-2008.

MATTHEW MCDOWELL, EXAMINING ATTORNEY



David J. Kyffers

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

Dale Earnhardt Jr.

Reg. No. 3,775,651

DEJ HOLDINGS, LLC (NORTH CAROLINA LIMITED LIABILITY COMPANY)
349 CAYUGA DRIVE

Registered Apr. 13, 2010

MOORESVILLE, NC 28117

Int. Cl.: 16

FOR: PAPER GOODS AND PRINTED MATTER, NAMELY, CALENDARS; TRADING CARDS,
IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

TRADEMARK

FIRST USE 10-5-2009; IN COMMERCE 10-5-2009.

PRINCIPAL REGISTER

OWNER OF U.S. REG. NOS. 2,673,722 AND 2,673,723.

THE NAME(S), PORTRAIT(S), AND/OR SIGNATURE(S) SHOWN IN THE MARK IDENTIFIES
"DALE EARNHARDT, JR.", WHOSE CONSENT(S) TO REGISTER IS SUBMITTED.

THE MARK CONSISTS OF THE STYLIZED WORDS "DALE EARNHARDT JR".

SN 77-564,268, FILED 9-8-2008.

MATTHEW MCDOWELL, EXAMINING ATTORNEY



David J. Kypas

Director of the United States Patent and Trademark Office

United States of America

United States Patent and Trademark Office

Dale Earnhardt Jr

Reg. No. 3,850,682

Registered Sep. 21, 2010

Int. Cl.: 41

SERVICE MARK

PRINCIPAL REGISTER

DEJ HOLDINGS, LLC (NORTH CAROLINA LIMITED LIABILITY COMPANY)
349 CAYUGA DRIVE
MOORESVILLE, NC 28117

FOR: ENTERTAINMENT SERVICES, NAMELY, PARTICIPATION IN PROFESSIONAL AUTOMOBILE RACES AND RELATED EXHIBITIONS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 2-20-2008; IN COMMERCE 2-20-2008.

OWNER OF U.S. REG. NOS. 2,673,722 AND 2,673,723.

THE NAME(S), PORTRAIT(S), AND/OR SIGNATURE(S) SHOWN IN THE MARK IDENTIFIES "DALE EARNHARDT, JR.", WHOSE CONSENT(S) TO REGISTER IS SUBMITTED.

THE MARK CONSISTS OF THE STYLIZED WORDS "DALE EARNHARDT JR".

SN 77-564,259, FILED 9-8-2008.

MATTHEW MCDOWELL, EXAMINING ATTORNEY



David J. Kybas

Director of the United States Patent and Trademark Office



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Trademark Assignment Abstract of Title

Total Assignments: 5

Serial #: 76077198

Filing Dt: 06/23/2000

Reg #: 2673722

Reg. Dt: 01/14/2003

Registrant: RDE ADMINISTRATIVE TRUST

Mark: DALE EARNHARDT JR.

Assignment: 1

Reel/Frame: 2523/0080

Recorded: 02/11/2002

Pages: 22

Conveyance: NUNC PRO TUNC ASSIGNMENT, EFFECTIVE 02-18-2001

 Assignor: EARNHARDT, TERESA H., EXECUTRIX OF THE ESTATE OF RALPH DALE EARNHARDT, ACTING ON BEHALF OF RALPH DALE EARNHARDT

Exec Dt: 02/18/2001

Entity Type: CITIZEN OF UNITED STATES OF AMERICA

Citizenship: NONE

Entity Type: ESTATE OF RALPH DALE EARNHARDT WHO DIED ON FEBRUARY 18, 2001

Citizenship: NONE

Assignee: ESTATE OF RALPH DALE EARNHARDT

1675 CODDLE CREEK HIGHWAY

C/O TERESA H. EARNHARDT, EXECUTRIX OF THE ESTATE OF RALPH DALE EARNHARDT

NORTH CAROLINA 28115

Correspondent: ALSTON & BIRD LLP

GEORGE M. TAULBEE, ESQ.

BANK OF AMERICA PLAZA

CHARLOTTE, NORTH CAROLINA 28280-4000

Assignment: 2

Reel/Frame: 2524/0461

Recorded: 04/11/2002

Pages: 20

Conveyance: NUNC PRO TUNC ASSIGNMENT, EFFECTIVE 2-18-2001

Assignor: ESTATE OF RALPH DALE EARNHARDT

Exec Dt: 03/27/2002

Entity Type: ESTATE OF RALPH DALE EARNHARDT WHO DIED ON FEB. 18, 2001

Citizenship: NONE

Entity Type: TRUST ESTABLISHED UNDER NC LAW

Citizenship: NONE

Assignee: RDE ADMINISTRATIVE TRUST

1675 CODDLE CREEK HIGHWAY

C/O TERESA H. EARNHARDT, TRUSTEE

MOORESVILLE, NORTH CAROLINA 28115

Correspondent: ALSTON & BIRD LLP

GEORGE M. TAULBEE, ESQ.

101 S. TRYON STREET, SUITE 4000

BANK OF AMERICA PLAZA

CHARLOTTE, NC 28280-4000

Assignment: 3

Reel/Frame: 2762/0572

Recorded: 12/12/2003

Pages: 7

Conveyance: NUNC PRO TUNC ASSIGNMENT

Assignor: RDE ADMINSTRATIVE TRUST

Exec Dt: 09/23/2003

Entity Type: TRUST ESTABLISHED UNDER LAWS OF NORTH CAROLINA

Citizenship: NONE

Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Assignee: EARNHARDT, TERESA H

1675 DALE EARNHARDT HIGHWAY, NO. 3

 EXHIBIT
 Applicant's Ex. 17
 Opposition No. 91205331

C/O DALE EARNHARDT, INC.
MOORESVILLE, NORTH CAROLINA 28115

Correspondent: GEORGE M. TAULBEE
101 SOUTH TRYON STREET, SUITE 4000
BANK OF AMERICA PLAZA
CHARLOTTE, NC 28280-4000

Assignment: 4**Reel/Frame:** 3334/0202**Recorded:** 06/20/2006**Pages:** 4**Conveyance:** ASSIGNS THE ENTIRE INTEREST**Assignor:** TERESA H. EARNHARDT

Assignee: JR. MOTORSPORTS, LLC
1675 CODDLE CREEK HIGHWAY
MOORESVILLE, NORTH CAROLINA 28115

Correspondent: JAYNE C. HUNTER
101 NORTH TRYON STREET
SUITE 1900
CHARLOTTE, NC 28246

Assignment: 5**Reel/Frame:** 3712/0567**Recorded:** 02/05/2008**Pages:** 3**Conveyance:** CHANGE OF NAME**Assignor:** JR. MOTORSPORTS, L.L.C.

Assignee: DEJ HOLDINGS, LLC
349 CAYUGA DRIVE
MOORESVILLE, NORTH CAROLINA 28117

Correspondent: HEATHER CARPENTER
C/O ROBINSON, BRADSHAW & HINSON, P.A.
101 N. TRYON STREET, SUITE 1900
CHARLOTTE, NC 28246

Exec Dt: 06/15/2006**Entity Type:** INDIVIDUAL**Citizenship:** UNITED STATES**Entity Type:** LIMITED LIABILITY COMPANY**Citizenship:** NORTH CAROLINA**Exec Dt:** 09/13/2007**Entity Type:** LIMITED LIABILITY COMPANY**Citizenship:** NORTH CAROLINA**Entity Type:** LIMITED LIABILITY COMPANY**Citizenship:** NORTH CAROLINA

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EXHIBIT
Applicant's Ex. 18
Opposition No. 91205331

KERRY EARNHARDTWord Mark **KERRY EARNHARDT**

Goods and Services (CANCELLED) IC 006. US 002 012 013 014 023 025 050. G & S: [METAL KEY RINGS, METAL KEY CHAINS, METAL LICENSE PLATES]. FIRST USE: 20020301. FIRST USE IN COMMERCE: 20020301

(CANCELLED) IC 014. US 002 027 028 050. G & S: [ORNAMENTAL LAPEL PINS, [HAT PINS MADE OF PRECIOUS METAL, AND EARRINGS]]. FIRST USE: 20020301. FIRST USE IN COMMERCE: 20020301

(CANCELLED) IC 016. US 002 005 022 023 029 037 038 050. G & S: [BROCHURES [AND BOOKS] DIRECTED TO AUTOMOBILE RACING, [POSTERS, BUMPER STICKERS,] TRADING CARDS, DECALS, [STATIC DECALS,] STICKERS, WINDOW STICKERS, [MOUNTED PHOTOGRAPHS, UNMOUNTED PHOTOGRAPHS, PRINTS, ART PRINTS, COLOR PRINTS, PHOTOGRAPHIC PRINTS, PICTORIAL PRINTS]]. FIRST USE: 19940101. FIRST USE IN COMMERCE: 19940101

(CANCELLED) IC 021. US 002 013 023 029 030 033 040 050. G & S: [CUPS, DRINKING GLASSES, DRINKING MUGS, AND RUBBER, PLASTIC AND FOAM INSULATING BEVERAGE HOLDERS]. FIRST USE: 20020301. FIRST USE IN COMMERCE: 20020301

IC 025. US 022 039. G & S: SHIRTS, [GOLF SHIRTS,] T-SHIRTS, [JACKETS, CAPS, HATS]. FIRST USE: 20020211. FIRST USE IN COMMERCE: 20020211

(CANCELLED) IC 028. US 022 023 038 050. G & S: [MINIATURE CARS, MODEL CARS, CAR BANKS, TOY VEHICLES]. FIRST USE: 19990101. FIRST USE IN COMMERCE: 19990201

IC 035. US 100 101 102. G & S: PROMOTING THE GOODS AND SERVICES OF OTHERS THROUGH THE DISTRIBUTION OF PRINTED MATERIALS AND PERSONAL APPEARANCES. FIRST USE: 20020101. FIRST USE IN COMMERCE: 20020101

IC 041. US 100 101 107. G & S: ENTERTAINMENT SERVICES IN THE NATURE OF PARTICIPATING IN PROFESSIONAL AUTOMOBILE RACES AND RELATED EXHIBITIONS. FIRST USE: 20020216. FIRST USE IN COMMERCE: 20020216

Mark Drawing Code (1) TYPED DRAWING

Serial Number 76480693

Filing Date January 7, 2003

Current Basis 1A

Original Filing Basis 1A

Published for Opposition November 18, 2003

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 2812515

Registration Date February 10, 2004

Owner (REGISTRANT) Kerry Earnhardt, Inc. CORPORATION NORTH CAROLINA 445 Patterson Farm Road Mooresville NORTH CAROLINA 28115

Attorney of Record Lani Barnes

Type of Mark TRADEMARK. SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 15. PARTIAL SECT 8 (6-YR). PARTIAL SECTION 8(10-YR) 20140210.

Renewal 1ST RENEWAL 20140210

Other Data The name "KERRY EARNHARDT" identifies a living individual whose consent is of record.

Live/Dead Indicator LIVE

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Int. Cls.: 6, 14, 16, 21, 25, 28, 35 and 41

Prior U.S. Cls.: 2, 5, 12, 13, 14, 22, 23, 25, 27, 28, 29,
30, 33, 37, 38, 39, 40, 50, 100, 101, 102 and 107

Reg. No. 2,812,515

Registered Feb. 10, 2004

United States Patent and Trademark Office

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

KERRY EARNHARDT

KERRY EARNHARDT, INC. (NORTH CAROLINA CORPORATION)
445 PATTERSON FARM ROAD
MOORESVILLE, NC 28115

FOR: METAL KEY RINGS, METAL KEY CHAINS, METAL LICENSE PLATES, IN CLASS 6 (U.S. CLS. 2, 12, 13, 14, 23, 25 AND 50).

FIRST USE 3-1-2002; IN COMMERCE 3-1-2002.

FOR: ORNAMENTAL LAPEL PINS, HAT PINS MADE OF PRECIOUS METAL, AND EARRINGS, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 3-1-2002; IN COMMERCE 3-1-2002.

FOR: BROCHURES AND BOOKS DIRECTED TO AUTOMOBILE RACING, POSTERS, BUMPER STICKERS, TRADING CARDS, DECALS, STATIC DECALS, STICKERS, WINDOW STICKERS, MOUNTED PHOTOGRAPHS, UNMOUNTED PHOTOGRAPHS, PRINTS, ART PRINTS, COLOR PRINTS, PHOTOGRAPHIC PRINTS, PICTORIAL PRINTS, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 1-1-1994; IN COMMERCE 1-1-1994.

FOR: CUPS, DRINKING GLASSES, DRINKING MUGS, AND RUBBER, PLASTIC AND FOAM INSULATING BEVERAGE HOLDERS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 3-1-2002; IN COMMERCE 3-1-2002.

FOR: SHIRTS, GOLF SHIRTS, T-SHIRTS, JACKETS, CAPS, HATS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 2-11-2002; IN COMMERCE 2-11-2002.

FOR: MINIATURE CARS, MODEL CARS, CAR BANKS, TOY VEHICLES, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 1-1-1999; IN COMMERCE 2-1-1999.

FOR: PROMOTING THE GOODS AND SERVICES OF OTHERS THROUGH THE DISTRIBUTION OF PRINTED MATERIALS AND PERSONAL APPEARANCES, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 1-1-2002; IN COMMERCE 1-1-2002.

FOR: ENTERTAINMENT SERVICES IN THE NATURE OF PARTICIPATING IN PROFESSIONAL AUTOMOBILE RACES AND RELATED EXHIBITIONS, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

FIRST USE 2-16-2002; IN COMMERCE 2-16-2002.

THE NAME "KERRY EARNHARDT" IDENTIFIES A LIVING INDIVIDUAL WHOSE CONSENT IS OF RECORD.

SER. NO. 76-480,693, FILED 1-7-2003.

JOHN HWANG, EXAMINING ATTORNEY

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col·lec-tion

noun \kə-'lek-shən\

- : the act or process of getting things from different places and bringing them together
- : a group of interesting or beautiful objects brought together in order to show or study them or as a hobby
- : a request for money in order to help people or to pay for something important; *also* : the money collected in this way

Full Definition of COLLECTION

8+1

Like

- 1 : the act or process of collecting
 - 2 a : something collected; *especially* : an accumulation of objects gathered for study, comparison, or exhibition or as a hobby
 - b : GROUP, AGGREGATE
 - c : a set of apparel designed for sale usually in a particular season
- See collection defined for English-language learners »
See collection defined for kids »

Examples of COLLECTION

- a system of tax *collection*
- The technology makes data *collection* easier.
- There will be a trash *collection* this week.
- The museum's *collection* is one of the best in the country.
- We *took up a collection* for the school renovations.
- Ten percent of the *collection* goes to the city's shelters for homeless people.

First Known Use of COLLECTION

14th century

Related to COLLECTION

Synonyms
assemblage, library

[+] more

Applebees
SEE YOU TOMORROW.

Grilled Chicken Wonton Tacos

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Names

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TO DECORATE YOUR KINGDOM

THINKGEEK **SHOP NOW**
JOIN W/ GEEK OUT. GET FREE SHIPPING!

EXHIBIT

Applicant's Ex. 19

Opposition No. 91205331

Rhymes with COLLECTION

abjection, advection, affection, bisection, complexion,
confection, connection, convection, correction, cross section,
C-section, defectio...

[+] more

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SCRABBLE®: Playable words you can make from
"collection"

Britannica.com: Encyclopedia article about "collection"

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Collection (artwork) - Wikipedia, the free encyclopedia[en.wikipedia.org/wiki/Collection_\(artwork\)](http://en.wikipedia.org/wiki/Collection_(artwork)) ▾ [Wikipedia ▾](#)

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The Hyde Collectionhydecollection.org/ ▾ [The Hyde Collection Art Museum ▾](#)

Founded by Charlotte Pruyn Hyde in 1952, the museum exhibits an important **collection** of European and American works of **art** and European antiques.

Collection | The Metropolitan Museum of Artwww.metmuseum.org/collection ▾ [Metropolitan Museum of Art ▾](#)

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The Hess Collection Contemporary Art Museumwww.hesscollection.com/art/ ▾

Donald Hess began collecting **art** in 1966. Today, The Hess **Collection** houses less than a quarter of a **collection** that is shown in museums worldwide.

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The Andy Warhol Museum's **collection** includes 900 paintings, approximately 100 ... Over the course of his career, Andy Warhol transformed contemporary **art**.

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Postage **stamps** and **stamp collections** listings, information, prices and search by country facility for **stamp** collectors.

Stamp collecting - Wikipedia, the free encyclopedia

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A philatelist may, but does not have to, **collect stamps**. It is not uncommon for the term philatelist to be used to mean a stamp collector. Many casual stamp ...

Collecting - History of stamp collecting - Stamp collecting equipment

Stamp Collecting Resource: How to value, collect, and sell ...

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Stamp collecting demystified by a collector turned dealer. **Stamp** resources for selling, valuing and collecting.

Stamp Collecting Values - What are my stamps worth?

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Stamp Collecting Values. Quickly getting a good idea of how much a postage **stamp** or **collection** is worth should be easy.

In the news

5 reasons why your kid should **collect stamps**

The Southern - 1 day ago

Sorting through **stamps** and building a **collection** requires "a very different kind of attention" ...

Finding Gold In One Cent **Stamps**

Forbes - 3 hours ago

Stamp festival reveals stories from Kingston's past

The Kingston Whig-Standard - 13 hours ago

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Starting a Collection - American Philatelic Society

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Starting A Collection ... How to identify **stamps**? Tools needed to get started? How to

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Where to Sell Your Baseball Cards and Other Trading Cardswww.cardboardconnection.com/collectopedia/.../baseball-card-buyers/ ▾

A comprehensive list of places to sell **baseball cards**, memorabilia and other sports cards and ... Do you have a valuable **collection** that you are looking to sell?

How To: Pricing - 30 of the Best Baseball Cards ... - Why Sports Card Values from ...

Collectible Topps Baseball Cards - Collectors Weeklywww.collectorsweekly.com/baseball/topps-cards ▾

In the world of **baseball-card** publishers, Topps reigns supreme. ... Check out this well-organized **collection** of 500 sets of **baseball cards**, each over 50 years old.

I thought my baseball card collection had value. It did, but ...www.indyweek.com ▸ [Columns](#) ▸ [First Person](#) ▾ [Indy Week](#) ▾

Aug 14, 2013 - But mostly these were **baseball cards** that I had **collected** as a kid with an obsession so strong I used to write notes about Jose Canseco in the ...

How to Collect Baseball Cards - DiamondFans.comwww.diamondfans.com/howto-collect.html ▾

It is a rare baseball fan indeed who has never purchased a pack of **baseball cards**. But not every fan becomes a serious collector. If you have never started a ...

How much are my baseball cards worth?www.sportscardfun.com/baseball-cards-value.asp ▾

Baseball cards have value for different reasons to different people. in a more specific way, you are able to add key cards to your **collection** for less money.

The Decline of Topps Baseball Cards - SB Nationwww.sbnation.com/2013/2/.../topps-2013-baseball-cards-revie... ▾ [SB Nation](#) ▾

Feb 2, 2013 - Today, collecting **baseball cards** other than for the pleasure of doing so is ... pack hoping to find something of value to add to their **collection**.

How to Collect Baseball Cards | Howcastwww.howcast.com ▸ ... ▸ [How to Make Money with Collectibles](#) ▾

Baseball card collecting, even if it's just for fun, can become an expensive hobby. Learning the basics is important, or you'll wind up wasting your money.

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Candle Collection Birthday Card Reviews | Shutterfly

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